

AMENDED IN ASSEMBLY MARCH 25, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2863

Introduced by Assembly Member Leno

February 22, 2008

~~An act relating to energy.~~ *An act to amend Section 218 of the Public Utilities Code, relating to public utilities.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2863, as amended, Leno. ~~Energy: solar installations: financing.~~
~~Public utilities: electrical corporations.~~

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. An electrical corporation is defined as including every corporation or person owning, controlling, operating, or managing any electric plant for compensation within this state, except where electricity is generated on or distributed by the producer through private property solely for its own use or the use of its tenants and not for sale or transmission to others.

This bill would additionally create an exception from the definition of an "electrical corporation," where a corporation or person employs one or more photovoltaic generation systems for the generation of electricity for its own use or the use of its tenants, the use of, or sale to, not more than 2 other corporations or persons per generation system solely for use on the real property on which the electricity is generated, or sale or transmission to an electrical corporation or state or local public agency.

~~A decision of the Public Utilities Commission adopted the California Solar Initiative. Existing law requires the commission to undertake~~

certain steps in implementing the California Solar Initiative, defines an eligible solar energy system for purposes of the program, and regulates the use of funds under the California Solar Initiative, including ensuring that not less than 10% of the funds for the California Solar Initiative are utilized for the installation of solar energy systems, as defined, on low-income residential housing, as defined.

~~This bill would declare that a public purpose would be served by a long-term financing program that finances solar projects in common interest developments and homeowner associations.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 218 of the Public Utilities Code is*
2 *amended to read:*

3 218. (a) “Electrical corporation” includes every corporation
4 or person owning, controlling, operating, or managing any electric
5 plant for compensation within this state, except where electricity
6 is generated on or distributed by the producer through private
7 property solely for its own use or the use of its tenants and not for
8 sale or transmission to others.

9 (b) “Electrical corporation” does not include a corporation or
10 person employing cogeneration technology or producing power
11 from other than a conventional power source for the generation of
12 electricity solely for any one or more of the following purposes:

13 (1) Its own use or the use of its tenants.

14 (2) The use of or sale to not more than two other corporations
15 or persons solely for use on the real property on which the
16 electricity is generated or on real property immediately adjacent
17 thereto, unless there is an intervening public street constituting the
18 boundary between the real property on which the electricity is
19 generated and the immediately adjacent property and one or more
20 of the following applies:

21 (A) The real property on which the electricity is generated and
22 the immediately adjacent real property is not under common
23 ownership or control, or that common ownership or control was
24 gained solely for purposes of sale of the electricity so generated
25 and not for other business purposes.

1 (B) The useful thermal output of the facility generating the
2 electricity is not used on the immediately adjacent property for
3 petroleum production or refining.

4 (C) The electricity furnished to the immediately adjacent
5 property is not utilized by a subsidiary or affiliate of the corporation
6 or person generating the electricity.

7 (3) Sale or transmission to an electrical corporation or state or
8 local public agency, but not for sale or transmission to others,
9 unless the corporation or person is otherwise an electrical
10 corporation.

11 (c) "Electrical corporation" does not include a corporation or
12 person employing landfill gas technology for the generation of
13 electricity for any one or more of the following purposes:

14 (1) Its own use or the use of not more than two of its tenants
15 located on the real property on which the electricity is generated.

16 (2) The use of or sale to not more than two other corporations
17 or persons solely for use on the real property on which the
18 electricity is generated.

19 (3) Sale or transmission to an electrical corporation or state or
20 local public agency.

21 (d) "Electrical corporation" does not include a corporation or
22 person employing digester gas technology for the generation of
23 electricity for any one or more of the following purposes:

24 (1) Its own use or the use of not more than two of its tenants
25 located on the real property on which the electricity is generated.

26 (2) The use of or sale to not more than two other corporations
27 or persons solely for use on the real property on which the
28 electricity is generated.

29 (3) Sale or transmission to an electrical corporation or state or
30 local public agency, ~~provided, however, that if~~ the sale or
31 transmission of the electricity service to a retail customer ~~shall~~
32 ~~only be~~ is provided through the transmission system of the existing
33 local publicly owned electric utility or electrical corporation of
34 that retail customer.

35 (e) "*Electrical corporation*" does not include a corporation or
36 person employing one or more photovoltaic generation systems
37 for the generation of electricity for any one or more of the following
38 purposes:

39 (1) *Its own use or the use of its tenants.*

1 (2) *The use of, or sale to, not more than two other corporations*
2 *or persons per generation system solely for use on the real property*
3 *on which the electricity is generated.*

4 (3) *Sale or transmission to an electrical corporation or state*
5 *or local public agency.*

6 ~~(e)–~~

7 (f) The amendments made to this section at the 1987 portion of
8 the 1987–88 Regular Session of the Legislature do not apply to
9 any corporation or person employing cogeneration technology or
10 producing power from other than a conventional power source for
11 the generation of electricity that physically produced electricity
12 prior to January 1, 1989, and furnished that electricity to
13 immediately adjacent real property for use thereon prior to January
14 1, 1989.

15 ~~SECTION 1. The Legislature finds and declares all of the~~
16 ~~following:~~

17 ~~(a) Energy conservation efforts, including the promotion of~~
18 ~~energy efficiency improvements to residential and common interest~~
19 ~~developments, are necessary to address the issue of global climate~~
20 ~~change.~~

21 ~~(b) The upfront cost of making residential solar energy panels~~
22 ~~prevents many property owners from making those improvements.~~
23 ~~To make those improvements more affordable and to promote the~~
24 ~~installation of those improvements, it is necessary to authorize an~~
25 ~~alternative procedure for financing the cost of residential solar~~
26 ~~installations.~~

27 ~~(c) A public purpose will be served by a long-term financing~~
28 ~~program that finances solar projects in common interest~~
29 ~~developments and homeowner associations.~~